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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/769,783

02/03/2004

Daisuke Nagao

118543

9289

25944 7590 10/09/2007  
OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

EXAMINER

CLARK, SHEILA V

ART UNIT

PAPER NUMBER

2823

MAIL DATE

DELIVERY MODE

10/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/769,783

Applicant(s)

NAGAO ET AL.

Examiner

S. V. Clark

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7-10-07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 18 is/are rejected.
- 7) ☒ Claim(s) 2, 5-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Claim 1, 3-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite features such as "cross sectional form member(s) " that fail to include structural characteristics that would allow one to determine what type of component is a "cross sectional form member " and even what is meant by a "cross sectional form". Since one cannot determine what type of component is a "cross sectional form member " it is difficult to determine how this component is oriented relative to the other components or aspects of the invention recited in the claims. The same is true when "collective " is used to describe of another feature of said members. Since elements such as the cross sectional form member in recited in somewhat abstract terms said member could be many various component. Even though the applicant can be his own lexicographer terms recited should be recited such that one can determine what is being characterized.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al.

Aoki et al teaches manufacturing method for a three-dimensional structural body comprising, sequentially bonding/transferring and laminating (see 0053, 0054 and 0083

and step of transferring is also taught in 0089). A plurality of cross-sectional form members 14 are shown, each being held in space above a first substrate by a holding member 30 and corresponding to a slice pattern of a three-dimensional structural body, onto a second substrate 30.

With regard to claim 3, the holding member comprises a coupling member 32 connected to the cross-sectional form member 143, and a frame member provided between the coupling member and the first substrate.

With regard to claim 4, the frame member 18 includes a columnar part positioning member shown in figure 17 is provided on the first substrate said frame part is provided on the columnar part and connected to the coupling member.

With regard to claim 18, the three dimensional body includes a photonic crystal (see paragraph 0003 and 0005).

Claims 1, 3-4, 18 are rejected.

Claims 2, 5-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to the claim have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to S. V. Clark at telephone number (571) 272-1725.

  
S. V. Clark  
Primary Examiner  
Art Unit 2823

September 29, 2007